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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,840	09/13/2000	Paul Remijan	2476.1003-001	7821

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EXAMINER

LEUBECKER, JOHN P

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/660,840

Applicant(s)

REMIJAN ET AL.

Examiner

John P. Leubecker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) 19-21, 34, 40-50, 52-58 and 70-80 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 22-33, 35-39, 51 and 59-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/1/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 24-26, 63 and 64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 24, recitation of a “coupler” in addition to the “connector” now claimed in claim 1, both of which connect the handle to the optical waveguide, is ambiguous as to the difference between these two elements. No distinction is made in the specification. It appears that this claim should have been canceled when such limitations were added to claim 1.

As to claims 25 and 26, recitation of a “sheath” in addition to the “sterile barrier” now claimed in claim 1, both of which extend over the handle, is ambiguous as to the difference between these two elements. No distinction is made in the specification. It appears that claim 25 should have been canceled when such limitations were added to claim 1.

As to claims 63 and 64, note same defect as claims 25 and 26, except with respect to independent claim 51. It appears that these claims should have been canceled when such limitations were added to claim 1.

Dependent claims where present inherit those defects.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-3, 5, 6, 9, 12, 15, 17, 18, 22-26, 28-31, 35, 36, 39, 51 and 59-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegmund et al. (U.S. Pat. 5,423,312) in view of Yoshida et al. (U.S. Pat. 4,593,973) and further in view of Kurtzer (U.S. Pat. 5,168,863).

Note reasons set forth in numbered paragraph 2 of the previous Office Action, paper number 14. As to the newly added limitation regarding the connector for removably attaching the handle to the optical waveguide, note that this feature was addressed with respect to claim 24. As to the newly added limitation regarding the sterile barrier, note that this feature was addressed with respect to claims 25, 26, 63 and 64 in numbered paragraph 7 of the previous Office Action, paper number 14.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siegmund et al. in view of Yoshida et al. and Kurtzer, and further in view of Woodard et al.. (U.S. Pat. 5,947,958) for the reasons set forth in numbered paragraph 3 of the previous Office Action, paper number 14.

4. Claims 7, 10, 13, 14, 16 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegmund et al. in view of Yoshida et al. and further in view of Kurtzer for the reasons set forth in numbered paragraph 4 of the previous Office Action, paper number 14.

5. Claims 8 and 33 rejected under 35 U.S.C. 103(a) as being unpatentable over Siegmund et al. in view of Yoshida et al. and Kurtzer, and further in view of Eastman (U.S. Pat. 5,319,731)

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for the reasons set forth in numbered paragraph 5 of the previous Office Action, paper number 14..

6. Claims 11, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegmund et al. in view of Yoshida et al. and Kurtzer, and further in view of Strack (U.S. Pat. 3,902,880) for the reasons set forth in numbered paragraph 6 of the previous Office Action, paper number 14.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siegmund et al. in view of Yoshida et al. and Kurtzer and further in view of Jones (U.S. Pat. 3,724,922) for the reasons set forth in numbered paragraph 8 of the previous Office Action, paper number 14.

8. Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siegmund et al. in view of Yoshida et al. and Kurtzer, and further in view of Kishi et al. (U.S. Pat. 4,972,827) for the reasons set forth in numbered paragraph 3 of the previous Office Action, paper number 14.

Response to Arguments

9. Applicant's arguments filed October 1, 2004 have been fully considered but they are not persuasive. Applicant contends that the claims have been amended to recite a combination that the cited references fail to disclose or suggest. However, the features added to certain claims come from certain dependent claims that were addressed with respect to cited prior art. Hence, the Examiner has maintained his positions from the previous Office Action.

Conclusion

10. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

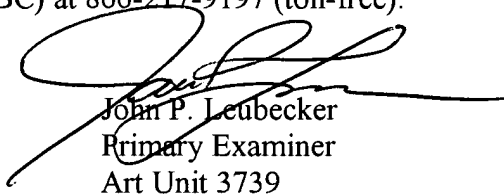
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (571) 272-4769. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P. Leubecker
Primary Examiner
Art Unit 3739

jpl